



**NATIONAL MEDIATION BOARD**

WASHINGTON, DC 20572

(202) 692-5000

31 NMB No. 25  
January 5, 2004

Marcus C. Migliore  
Senior Attorney  
Air Line Pilots Association  
1625 Massachusetts Avenue, NW.  
Washington, DC 20036

Tej Raj  
Vice President Operations  
Steven Markloff  
General Counsel  
Kitty Hawk Aircargo, Inc.  
1515 W. 20<sup>th</sup> Street  
DFW International Airport, TX 75261

Re: NMB File No. C-6809/Case No. R-6760  
Kitty Hawk Aircargo, Inc.

Gentlemen:

This determination addresses requests from the Air Line Pilots Association (ALPA or Organization) and the Kittyhawk Pilots Association (KPA or Organization) to transfer KPA's certification in Case No. R-6760 to ALPA. For the reasons discussed below, the National Mediation Board (Board) grants the requests and transfers KPA's certification in R-6760 to ALPA.

KPA was certified to represent Pilots on Kitty Hawk Aircargo, Inc. (Kitty Hawk or Carrier) in Case No. R-6760 (2000). On December 1, 2003, the Board received a letter from

ALPA requesting a transfer of KPA's certification for Pilots to ALPA.

The Carrier did not provide the Board with a position statement in this matter.

According to the letter from the Organizations and the accompanying documents, consistent with the Constitutions and By-Laws, the governing bodies of both unions have approved a merger agreement. KPA conducted a secret ballot election among its members. Seventy-three members voted to merge with ALPA, 17 voted to reject the proposed merger. KPA members ratified the merger with the required 2/3 majority.

The Railway Labor Act requires only that the Board investigate a transfer of certification based on a union merger rather than mandating any procedures for such an investigation. *Continental Airlines, Inc., v. Nat'l Mediation Brd.*, 793 F. Supp. 330 (D.D.C. 1991), *aff'd mem.*, 957 F.2d 911 (D.C. Cir. 1992), *cert. denied*, 493 U.S. 974 (1992).

In most instances, the Board grants a transfer request based upon assertions contained in the request letters. *Consolidated Rail Corp.*, 28 NMB 30 (2000); *Big Sky Transp. Co.*, 25 NMB 376 (1998); *Desert Sun Airlines*, 24 NMB 137 (1997); *Northwest Airlines*, 18 NMB 446 (1991); *Transtar Airlines*, 14 NMB 377 (1987). The Board views an organization's decision to merge into another organization as an internal union matter and will grant requests for transfers of certification based on union mergers unless there is evidence of fraud or gross abuse in the merger or election. *Northwest Airlines*, *above* at 448.

There is no evidence of fraud or gross abuse in the merger or election process in this case. KPA's Constitution and By-laws require only that a secret ballot election be conducted. A majority of KPA's members voted by secret ballot to merge with ALPA. Based on its investigation, the Board finds that KPA has merged into ALPA. The Board's records are revised to

31 NMB No. 25

reflect the transfer of the certification issued to KPA in NMB Case No. R-6760 to ALPA.

By direction of the NATIONAL MEDIATION BOARD.

*Benetta M. Mansfield*

Benetta M. Mansfield  
Chief of Staff

Copy to:  
Tom Gothard